

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA**

SENECA RESOURCES CORPORATION, :  
Plaintiff, :  
v. : Civil Action No. 1:16-cv-00289-SPB  
HIGHLAND TOWNSHIP, ELK COUNTY, :  
PENNSYLVANIA AND THE HIGHLAND :  
TOWNSHIP BOARD OF SUPERVISORS, :  
ELK COUNTY, PENNSYLVANIA, :  
Defendants. :

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**CONSENTED TO MOTION TO AMEND COMPLAINT**

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Plaintiff, Seneca Resources Corporation (“Plaintiff”), pursuant to Fed. R. Civ. P. 15, submits this Consented To Motion to Amend its Complaint by withdrawing Counts III and IX and dropping all claims for damages. Defendants Highland Township and the Highland Township Board of Supervisors (“Defendants,” collectively, the “Parties”) consent to this Motion.

1. On November 30, 2016, Plaintiff filed a nine-count Complaint against Defendants.
2. On February 9, 2017, Plaintiff filed a Motion for Judgment on the Pleadings.
3. On September 29, 2017, this Court issued an Opinion and Order granting Plaintiff’s Motion for Judgment on the Pleadings regarding Counts I, II, V, VI, VII and VIII, determining that Sections 103-106, 109-110, 401, 404-411 and 501 of the Home Rule Charter

are invalid, unenforceable and unconstitutional. The Opinion and Order dismissed Count IV and denied judgment on the pleadings regarding Counts III and IX.

4. The Court's Order on Plaintiff's Motion for Judgment on the Pleadings provides Plaintiff with the substantive relief it sought; that is, a ruling that certain sections of the Home Rule Charter are invalid, unenforceable and unconstitutional. There is, therefore, no need for the Court to adjudicate Counts III and IX of the Complaint and Plaintiff seeks to amend the Complaint by withdrawing them. While Plaintiff was monetarily damaged by the actions of Defendants, Plaintiff is also willing to withdraw its claim for damages, costs and attorneys fees solely to avoid the costs and inconvenience to continue to prosecute the action.

5. Counsel for Plaintiff has spoken with counsel for Defendants and confirmed that Defendants consent to this motion.

WHEREFORE, Plaintiff, Seneca Resources Corporation, respectfully requests that this Court grant its Consented To Motion to Amend allowing Plaintiff to withdraw Counts III and IX of the Complaint and all claims for damages, costs and attorneys fees.

Respectfully submitted,

December 7, 2017

/s/ Stanley Yorsz  
Stanley Yorsz  
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